

Announcement 2003-56

Changes to Reporting Requirements for Certain 2002 Forms Because of Changes in the Capital Gains Tax Rates

BACKGROUND

The Jobs and Growth Tax Relief Reconciliation Act of 2003 (Public Law 108-27) amended section 1(h) of the Internal Revenue Code to change the capital gains tax rates. As a result, there are changes in the reporting requirements for the following 2002 forms (these forms and their instructions do not reflect this legislation) filed by entities with 2002-2003 fiscal years ending after May 5, 2003:

- Form 2439 for regulated investment companies (RICs) and real estate investment trusts (REITs); and
- Schedules K and K-1 for partnerships and S corporations and Schedule K-1 for estates.

Also, the tax computation using maximum capital gains rates (for both the regular tax and the alternative minimum tax) affects individuals and estates with 2002-2003 fiscal years ending after May 5, 2003.

Note: *Dividends received in a tax year beginning in 2002 and ending in 2003 are not qualified dividends, even if the dividends are received during 2003. Therefore, Individuals and estates with 2002-2003 fiscal years cannot have any qualified dividends for that tax year. Partnerships, S corporations, and estates with 2002-2003 fiscal years have no qualified dividends to pass through to their partners, shareholders, or beneficiaries.*

The necessary changes are described in the following sections.

FORM 2439: REPORTING UNDISTRIBUTED LONG-TERM CAPITAL GAINS FOR 2002-2003

RICs and REITs filing the 2002 Form 2439 for fiscal years ending after May 5, 2003, must provide additional information with their notices to shareholders. Filers must provide to shareholders the amount of post-May 5, 2003, undistributed long-term capital gains, and indicate that this amount must be reported on Schedule D (Form 1040), line 11, column (g) (or on Schedule D (Form 1041), line 7, column (g)). Filers determine this amount by figuring the amount that would be reported in box 1a taking into account only the part of the fiscal year after May 5, 2003. The smaller of that amount or the amount reported in box 1a is the amount of post-May 5, 2003, undistributed long-term capital gain to provide to shareholders. Filers may provide this additional information to shareholders on a substitute statement or on a separate statement. **Do not** report this additional information on 2002 Forms 2439 filed with the IRS. Filers must continue to report the total undistributed long-term capital gains for the entire tax year in box 1a of Form 2439. Also, the amount reported as qualified 5-year gain must be figured taking into account only the portion of the tax year before May 6, 2003.

FISCAL YEAR ESTATES AND INDIVIDUALS: REPORTING CAPITAL GAINS AND LOSSES, AND FIGURING TAX, FOR 2002-2003

Estates and individuals with 2002-2003 fiscal years ending after May 5, 2003, and affected by the new capital gains tax rates, must attach to their 2002 Form 1040 or 1041 a computation similar to that shown in Part IV of the 2003 Schedule D (Form 1040) or Part V of the 2003 Schedule D (Form 1041). A draft of the 2003 Schedule D (Form 1040) is available at www.irs.gov/pub/irs-dft/d1040sd.pdf. A draft of the 2003 Schedule D (Form 1041) is available at www.irs.gov/pub/irs-dft/d1041sd.pdf. These estates and individuals may use the 2003 Schedule D to figure their 2002 tax provided they modify the computation in Part IV (Part V for Form 1041 filers) to reflect the use

of the applicable 2002 tax rate schedules or tax table. Also, when figuring the amount to enter on line 28 of the 2003 Schedule D (Form 1040) or line 25 of the 2003 Schedule D (Form 1041), these filers cannot use the dollar amounts shown on that line. Instead, they must use \$46,700 if married filing jointly or qualifying widow(er); \$27,950 if single; \$37,450 if head of household; \$23,350 if married filing separately; or \$1,850 if an estate. Finally, line 23 of Schedule D (Form 1040) and line 20 of Schedule D (Form 1041) must be left blank because a fiscal year 2002-2003 taxpayer cannot have any qualified dividends.

Note: *The new capital gains rates also affect the computation of the alternative minimum tax. The above-mentioned filers should attach a computation similar to that shown in Part IV of the 2003 Form 6251 (or Part IV, Schedule I, of the 2003 Form 1041).*

Estates also must continue to report each beneficiary's share of the net short-term capital gain and net long-term capital gain, for the entire tax year, on Schedule K-1. In addition, the estate must provide to its beneficiaries net short-term capital gain and net long-term capital gain for the portion of the tax year after May 5, 2003. Each beneficiary's share of these amounts should be reported on line 14 of Schedule K-1.

FORMS 1065 AND 1120S (SCHEDULES K AND K-1): REPORTING CAPITAL AND SECTION 1231 GAINS AND LOSSES FOR 2002-2003

Partnerships and S corporations completing the 2002 Forms 1065 and 1120S must report, for the portion of the tax year after May 5, 2003, the following additional information:

- Post-May 5, 2003, net short-term capital gain or loss;
- Post-May 5, 2003, net long-term capital gain or loss; and
- Post-May 5, 2003, net section 1231 gain or loss.

These amounts must be reported as an item of information on line 24 of Schedule K (Form 1065) or on line 21 of Schedule K (Form 1120S). Each partner's or shareholder's share should be reported in the "Supplemental Information" space on Schedule K-1 (Form 1065 or 1120S).

In addition, these partnerships and S corporations must continue to report qualified 5-year gain, on line 4e(3) of Schedules K and K-1 (Form 1065 or 1120S), but only for the portion of the tax year before May 6, 2003. They also must continue to report, for the entire tax year:

- The net short-term capital gain or loss, on line 4d of Schedules K and K-1 (Form 1065 or 1120S);
- The net long-term capital gain or loss on, line 4e of Schedules K and K-1 (Form 1065 or 1120S);
- 28% rate gain or loss, on line 4e(2) of Schedules K and K-1 (Form 1065 or 1120S);
- The net gain or loss under section 1231 (other than due to casualty or theft), on line 6 of Schedules K and K-1 of Form 1065 (line 5 of Schedules K and K-1 of Form 1120S); and
- Other income, on line 7 of Schedules K and K-1 of Form 1065 (line 6 of Schedules K and K-1 of Form 1120S).

Partnerships and S corporations should advise partners and shareholders to report post-May 5, 2003, gain or loss amounts on the line of the form to which it relates in the separate column, if any, provided on that form for post-May 5, 2003, gain or loss.

Note: *The 2003 Form 1099-DIV, Dividends and Distributions, and the 2003 Form 1099-B, Broker and Barter Exchange Transactions, and their instructions have been revised to reflect the 2003 legislation and are available at www.irs.gov. All other affected forms, schedules, instructions, and publications will be revised to reflect the 2003 legislation and posted at www.irs.gov when they are finalized later this year.*